

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BWP MEDIA USA INC,

No. C-13-04514 PJH (DMR)

Plaintiff(s),

**ORDER TO SUBMIT SUPPLEMENTAL
BRIEFING IN SUPPORT OF MOTION
FOR DEFAULT JUDGMENT [DOCKET
NO. 26]**

v.

LOLJAM INC,

Defendant(s).

On February 28, 2014, Plaintiff BWP Media USA Inc. dba Pacific Coast News and National Photo Group filed a motion for default judgment. [Docket No. 26.] Having reviewed Plaintiff's motion, this court determines that Plaintiff did not brief the issue of this court's personal jurisdiction over Defendant, nor did it address the adequacy of service on Defendant. *See In re Tuli*, 172 F.3d 707, 712 (9th Cir. 1999) (before assessing merits of motion for default judgment, court must confirm that it has subject matter jurisdiction over case and personal jurisdiction over parties, as well as ensure adequacy of service on defendant). In addition, Plaintiff requests statutory damages of three times the purported licensing fee for alleged infringement of the "Kutcher Kunis Bagels" photo, (Pl.'s Mot. 11-12), but did not submit evidence supporting its claim that the licensing fee is \$1,500. In order to recover damages after securing a default judgment, a plaintiff must prove the relief it seeks by submitting proper evidence by way of a sworn affidavit. *Bd. of Trs. of the Boilermaker Vacation Trust v. Skelly, Inc.*, 389 F. Supp. 2d 1222, 1226 (N.D. Cal. 2005); *see PepsiCo, Inc. v. Cal.*

Sec. Cans, 238 F. Supp. 2d 1172, 1175 (C.D. Cal. 2002) (citing *Televideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987)).

Therefore, Plaintiff shall submit additional briefing by **April 11, 2014**, addressing the above deficiencies in the motion for default judgment, including evidence or argument that service on “Mary Quinn, whose title is Authorized to Accept Service”/American Incorporators Ltd. was adequate to effect service on Defendant pursuant to Federal Rule of Civil Procedure 4(e).

Immediately upon receipt of this Order, Plaintiff shall serve Defendants with a copy of this Order and file a proof of service with the court.

IT IS SO ORDERED.

Dated: April 4, 2014

